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ABSTRACT

The League of Women Voters is a nonprofit organization that, among other functions, helps voters learn more about issues, candidates, registration, and other election procedures. The most visible function performed by the League's Education Fund in recent years has been the sponsorship of the presidential debates. The League maintains that the debates have increased voter interest in the presidential election campaigns, increased voter participation in the elections, and promoted informed decision making on the part of the electorate. Toward these ends the League has worked to overcome the following obstacles: (1) the reluctance of candidates to participate, (2) the various regulations governing the utilization of the mass media for coverage of the debates, and (3) the costs associated with sponsoring the debates. League accomplishments include the promotion of the presidential debates, a selection procedure for the moderators and panelists that is equitable and allows for the selection of a cross section of journalists from a variety of media, and a debate format that has remained basically the same over the past two campaigns. The potential for change in the debates is somewhat limited, but might include the use of nonjournalists as questioners, the inclusion of more rebuttal time, and the use of cross examination. (HOD)

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THE LEAGUE OF WOMEN VOTERS SPONSORSHIP, PROMCTION AND DEFINITION OF PUBLIC POLITICAL DEBATE

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THE LEAGUE OF WOMEN VOTERS: SPONSORSHIP, PROMOTION AND DEFINITION OF PUBLIC POLITICAL DEBATE

The purpose of this paper is to discuss the role played by the League of Women Voters in the public political debate process. The paper focuses upon a variety of issues related to the sponsorship, promotion, and definition of public political debates. For the purposes of this paper primary emphasis will be given to the League's role in the Presidential Debates. The potential role of the American Forensic Association, in particular the Ad Hoc Committee on Public Political Debate, will also be addressed relative to certain issues.

The League of Women Voters, and more specifically the League of Women Voters Education Fund (LWVEF), is a nonprofit organization which, among other functions, helps voters learn more about issues, candidates, registration, and other election procedures. The most visible function performed by the League's Education Fund in recent years has been the sponsorship of the 1976 Presidential and Vice Presidential Debates and the 1980 Presidential Debates. The discussion which follows will relate to the sponsorship, promotion, and

definition of those debates.

SPONSORSHIP

The reasons for the League's sponsorship of the Presidential Debates have been publicly recognized for some time. Generally they relate to the desirability of providing the electorate with a view of how candidates handle themselves in a relatively spontaneous situation and how they approach the issues. The League argues that the debates have increased voter interest in the campaigns, they have increased voter participation in the elections, and they have promoted informed decision-making on the part of the electorate.

Toward these ends the League has worked to overcome the obstacles associated with the sponsorship of the debates. The three primary obstacles have been: 1) the reluctance of candidates to participate, 2) the various regulations governing the utilization of the mass media for coverage of the debates, and 3) the costs associated with sponsoring the debates. The League has been relatively successful in overcoming all of these obstacles.

In 1976 the League was able to muster the public pressure necessary to convince the candidates to debate. In May of that year, at its biennial convention, the League announced its plans to sponsor debates and initiated a nationwide campaign to generate support for the debates

and to apply pressure on the candidates to debate. A massive petition drive was conducted using the approximately 140,000 members of the 1,350 local leagues.[1] The goal of the petition drive was to obtain some four million signatures from persons favoring debates.[2] In addition to the support of the general citizenry, the League also enlisted the support of a variety of newspapers, and managed to obtain the endorsements of major political, professional, labor and education leaders.[3] The League was successful in making the debates an issue which attracted the interest of the media and the public. The League also directly contacted the candidates in an effort to get them to debate. Partly due to League efforts and partly due to the candidates initial willingness to debate, both Ford and Carter agreed to participate.

In 1980 the existence of a viable 3rd party candidate, John Anderson, as well as a host of other candidates, presented the League with a new problem relative to the candidates reluctance to debate. The major party candidates, Carter and Reagan, who had agreed to debate earlier, were reluctant to appear in a debate with Anderson for fear of giving his candidacy additional credibility. They believed they had everything to lose and Anderson had everything to gain. Carter wanted a head to head debate with Reagan prior to a three way debate including Anderson, but the League

wanted to include all viable candidates[4] in all debates Carter's position did not change, therefore Anderson and Reagan participated in the Baltimore debate. After its completion the League decided to advocate a package of debates including a Carter-Reagan debate followed by a three way debate with Anderson. Reagan would not accept this alternative and again the debates were thwarted. Late in the campaign Anderson failed to meet the criteria[5] established to determine candidate inclusion in the debates and therefore a Carter-Reagan debate was scheduled and both candidates agreed to participate. The League, after extensive efforts in both 1976 and 1980, managed to overcome the candidates reluctance to debate and staged the debates.

The second obstacle, the regulations pertaining to the "equal time" provisions of Section 315 of the Communications Act of 1934, was substantially reduced in the Fall of 1975. This occured when the Federal Communications Commission ruled, by a 5-2 vote, that,

> "...live broadcasting of candidates entire news conferences or press conferences, and, under certain circumstances, candidates' debates, would be exempt from equal-time requirements because they were bona fide news events. The debates had to be nonstudio events initiated by nonbroadcast, independent entities, and broadcast in their entirety. Consequently, when the League of Women Voters (a nonbroadcast entity) agreed to sponsor the Ford-Carter debates in a nonstudio setting (which caused considerable technical difficulties for the networks), and to exclude minor party candidates, the debates did not activate successful equal-time demands."[6]

In summary, if sponsorship was independent of both broadcasters

and candidates, if they were held in nonstudio settings, and if the debates could be classified as bona fide news events they would be exempt from this regulation. This ruling allowed the League to proceed with their efforts to sponsor presidential debates. Both the 1976 and 1980 debates fell within the sanction of this regulation.

The third obstacle, the costs associated with sponsoring the debates, proved to be difficult to overcome. The costs associated with the staging of the 1976 debates totalled $315,000 according to the League.[7] In attempting to generate financial support for the 1976 debates the League became embroiled in the 1974 Federal Election Campaign Act (FECA) regulations controlling business and labor union contributions to political campaigns. In brief, given the "rules initially put forth by the Federal Election Commission (FEC) on the funding of the 1976 presidential debates, the League at first was prohibited from soliciting funds from business and labor unions to help defray expenses."[8] Generally this act made it unlawful for any corporation or union, "to make a contribution or expenditure in connection with any election to any political office..."[9] However, when the League first sought clarification of these regulations they were given "informal" advice which approved of such support. Given the informal approval the League had solicited and partly financed the presidential forums from corporate

or union sources.[10] This change in the interpretation of the regulations threatened the League with a potential deficit of $91,000[11] since the League was now forced to rely upon individual and unincorporated organizations for financial support.

To clarify the nature of the FEC regulations the League in February of 1977 sued the FEC, "...challenging the decision to prohibit the LWVEF from accepting corporate and union money."[12] As a result of this suit the FEC withdrew from their earlier position and began the process of formulating a new regulation pertaining to the debates. After having their first reformulation rejected by the Senate in September, 1979 the FEC again revised their regulations to allow for three modifications related to the sponsorship of the debates. They indicated first, "...organizations that did not endorse, support or oppose political candidates or parties..."[13] could sponsor debates. Secondly, they "...allowed bona fide broadcasters and the print media to spend corporate money to stage debates."[14] Thirdly, "...it left to the discretion of the sponsor the method by which candidates were chosen to participate."[15] Additionally, the FEC stated that the debates must be nonpartisan but the sponsor was given no direction as to how to achieve this goal. This regulation went into effect on April 1, 1980, and allowed the League to raise $700,000 for the 1980 presidential forums and debates.[16]

Sponsorship of the presidential debates appears to be uniquely appropriate to the League for several reasons. First, as indicated above the League has the organization necessary to mobilize the public pressure to overcome the candidates' reluctance to debate. Secondly, the League is clearly a nonpartisan organization and given the current regulatory climate this sponsor characteristic is essential. Finally, the League has the organization necessary to obtain the financial support to maintain the debates.

However, more recent Federal Communication Commission efforts may further obstruct the League's efforts. Currently the FCC has two legislative proposals pending which will substantially alter the "equal time" provisions of Section 315. The intent of the proposals is to eliminate regulatory activity in this area. The specific proposals, as outlined in a FCC news release dated September 17, 1981 are,

> Section 315 (Facilities for Candidates for Public Office). Repeal Section 315 which requires licensees to provide equal access to legally qualified candidates.[17]

and,

> Section 326 (Censorship; indecent Language). Amend Section 326 to read: "Nothing in this Act shall be understood or construed to give the Commission any power of censorship over the content of communications, and no regulation or condition, including any obligation to afford opportunity for the discussion of conflicting views on any issue shall be promulgated or fixed by the Commission which shall interfere with the right of free speech or of free press.[18]

They further indicate that, "The amendment of Section 326, together with the deletion of Section 315, repeals the

Fairness Doctrine".[19]

One can only speculate about the full effect of the proposed revisions, but one ramification might be that the League's sponsorship of the debates could be usurped by the networks. If the League is forced to relinquish its role in the presidential debates and the networks again sponsored them this may have serious consequences for the debates. For example, the process of negotiations and arrangements for the debates, an admittedly delicate process, may take on a more adversarial, combative flavor which is sometimes characteristic of the relationship between the media and the candidates. Given this turn of events the relative purity and objectivity of the process may be jeopardized. The worst case scenario might be the loss of the debates due to candidate-media disagreements. However, viewed optimistically, the proposed changes could remove some of the practical impediments to the League's sponsorship of the debates. For example, the debates could now be held in a network studio instead of in less controllable environments (recall the 27 minutes of silence).

Efforts should be made to carefully scrutinize the proposed FCC changes to avoid, if possible, these potential problems. The American Forensic Association should stay abreast of these changes and wherever possible should bring pressure to bear to avoid these problems. Care should be

taken to assure that the League's progress in hosting debates is not impeded. It is important to realize that 1984 would be the third consecutive debate and if it materializes this could create an "expectancy" on the part of the public and candidates which could do much to insure that debates become a regular feature in the campaigns. This would go far toward "institutionalizing" the debates, a goal of the League.

PROMOTION

The League has accomplished a great deal in terms of promoting the presidential debates. Past elections have benefited from their efforts and the role of the League with regard to the promotion of the debates should be maintained.

The issues relative to the promotion of the debates are similar to those issues related to sponsorship. The ability to effectively promote the debates is integrally dependent upon the power of the sponsor. The League is obviously able to utilize its power and organization to promote debates. Their integrity as an organization and the fact that they are nonpartisan also does much to promote the debates. They have achieved a reputation for fair treatment of the candidates and have garnered a great deal of knowledge with regard to negotiating with the candidates which is necessary to promote the debates. Finally, the Leaguehas successfully maneuvered through the legal-

regulatory maze necessary to obtain financial support for the debates and this achievement has done much to guarantee the continued existence of the debates.

The ultimate goal of the League is to "institutionalize" the debates as a part of all future campaigns. The League speaks to this point in their 1976 White Paper when they write that, "...we believe that debates, or their equivalent should be institutionalized in the election process and will work toward that end."[20] As argued earlier, if the League successfully sponsors debates during the 1984 campaign, they will have created a strong presumption in this direction.

DEFINITION

This commentary is relative to the structure of the debates as they have been defined by the League. Format, candidate inclusion, moderator-questioner selection, the negotiation process, cutaway shots, and the potential for change in the debates will be discussed.

The format of the debates have remained basically the same over the past two campaigns. Time has been evenly divided between the candidates and tightly controlled. Changes in time allocation which would allow the candidates to manipulate their own time a bit more have been considered and the League has made several attempts to promote "direct exchanges" between the candidates. One of several suggestions made by this author to the League prior to the 1980 debates

was to include cross-examination time. The League was receptive to the idea, however, this and other attempts to institute change have been continually rejected by the candidates. The maintenance of fairness and the reluctance of candidates to agree to change to an untested format are the primary reasons that more variability in format has not occured.

Furthermore, the fact that only one debate, between the major candidates, occured during the 1980 campaign severely restricted the opportunity to modify the debate format. Both candidates were extremely reluctant to vary the format given that only one debate would be held and it became more of a "winner take all" situation. The League had advocated the use of only a moderator to promote flexibility in the debate but the candidates wanted to stay with a more tested, predictable format including a moderator and questioners. A series of debates, in future campaigns, may well allow for the inclusion of variability in format from debate to debate. Continued attention should be given to what format changes would be desirable.

A closely related issue, which affects format selection, is the inclusion of 3rd party candidate(s). The League has expressed concern with regard to the affect that the inclusion of another voice would have on the depth of the debates. Obviously, the inclusion of another participant

would decrease the amount of time available for interaction between the participants. Given the potentiality of a viable 3rd party candidate in future campaigns thought should be given to the options available for format modification and their effect on the debates.

The League has attempted to establish a selection procedure for the moderators and panelists which is equitable and which allows for the selection of a cross section of journalists from a variety of media. The League procedure was also structured so as to maximize their independence of choice in the selection process. In brief, the 1976 procedure utilized by the League,

> "...accepted suggestions from many sources, including media organizations and even individual journalists. The League, also, asked the candidates to submit 45 names for each debate, consisting of 15 names in each category (broadcasting, print, and periodicals). From these sources and their own knowledge of the media, project staff developed one list of candidates and submitted it to the League negotiating committee members...This committee alone made the final selections. The candidates representatives had no part in the deliberations of the committee, no opportunity to see suggestions of the other nominee, no opportunity to screen any list or see the League's own lists, and no veto power over final choices." [21]

The panelist selection process used for the 1980 debate did notpermit the League this much independence. The candidates insisted upon having control over every detail of the debate including the selection of moderator-panelists. Since only one debate would be held they were unwilling to

forfeit any opportunity to control the outcome. Given the absolute nature of the candidates' demands the League was forced to allow them to take part in this process.

The selection process has yielded hundreds of names from across the entire spectrum of American journalism and well known, as well as, lesser known journalists have been utilized. An additional criterion for selection was the desire to select panelists who had "...broad experience in the general subject of the particular debate."[22]

Some consideration has been given to the use of non-journalists as questioners.[23] It could well be appropriate for topic specialists or perhaps debate specialists to be included in the pool of questioners to be selected. Careful consideration should be given to the advantages and disadvantages associated with the inclusion of non-journalists.

According to a 1979 report of the 20th Century Fund Task Force on Televised Presidential Debates, "...the single most difficult issue confronting Presidential Debate,"[24] is the inclusion of 3rd party candidates. Given the importance attached to this issue the League expended considerable time and energy to its resolution. As most realize, the League developed a set of criteria to govern decisions on whether a 3rd party candidate would be included. The criteria as explained by the League were,

> "1. Constitutional eligibility--only those candidates who met the requirements of the Constitution of the United States were considered. Article II, Section I requires the president to be a natural born citizen, at least 35 years of age, and a resident within the United States for at least 14 years.
> 2. Ballot access--a presidential candidate had to be on the ballot in enough states to have a mathematical possibility of winning the election, namely, a majority of votes (270) in the Electoral College.
> 3. Demonstrated significant voter interest and support--A candidate could demonstrate significant voter interest and support in one of two ways: nomination by a major party; or, for minor party and independent candidates, nationwide public opinion polls would be considered as an indicator of public interest and support. Those candidates who received a level of voter support in the polls of 15 percent or a level of support at least equal to that of a major party candidates would be invited to participate in the debates."[25]

These criteria were designed to be as discretion free and objective as possible. The first two criteria provoked little discussion, but the third criteria spawned a rather tumultuous reaction.

The potential for error in polling data and the arbitrary nature of the 15 percent figure drew the most significant reactions. Given the desirability of objective criteria, however, the League argued that poll data indicating a reasonable measure of public support (15 percent) was the most feasible mechanism to guide their decision.[26] The League utilized the services of several consultants to gauge the accuracy of this data. The League also felt that given the variations in the data as the campaign progressed, they would re-evaluate the figures periodically. The ultimate decision to exclude Anderson from the final debate was based upon his loss of

support, as indicated by the polls, as election day approached.

Several issues influenced the League's desire to use objective criteria. First, they wish to include, for voter education, all viable candidates but did not wish to "water down" the debates by including toomany participants. Secondly, they wanted to maintain their credibility as a nonpartisan sponsor so as to not provoke charges from the public and the FEC related to biased selection of candidates. A charge of partisanship could significantly damage the League efforts in the future with regard to sponsorship and financing of the debates. Thirdly, the League felt that the inclusion of 3rd party candidates would be easier to justify to the major party candidates if the criteria used were objective. This justification was necessary to get the major candidates to debate. In brief, the League wanted to make the criteria objective and their application as free from variance in interpretation as possible.

The negotiation process between the League, the candidates and the media is an extremely delicate process. Despite the fact that most researchers have yet to find a significant effect from the debates[27] the parties involved do not take them lightly. Particularly when a limited number of debates are planned the candidates become extremely

sensitive about all details. Given the initial reluctance to participate coupled with the many details which could alter the outcome of the debates, the League must carefully maneuver all candidates through the decision-making process prerequisite to debating. This negotiation process has been effectively handled during the last two campaigns. The experience garnered during these campaigns must not be undervalued. The League has demonstrated their ability to negotiate away conflicts which could have prohibited debates.

An example of one such detail was the "cutaway shot". The media, arguing journalistic freedom, wanted to show live views of the audience and the candidates opposed such camera shots. They argued that the shots might be unfair or detract from the issues being discussed. After hearing both sides the League "negotiated" asettlement which prohibited the shots of the audience. They reasoned that, "...television often accepts restrictions on the coverage of news events and that audience reaction was not nearly as important as the debate and might detract from audience concentration on the candidates."[28] Had an effective mediating party not intervened this type of disagreement might have escalated and prevented the occurence of debates. It is this type of issue, at first glance appearing trivial, which could disrupt the entire process. The League has had

experience with such problems and has demonstrated their ability to recognize them and solve them.

The potential for change in the debates is somewhat limited. The candidates have demonstrated a strong resistance to change. They much prefer the debates to remain as they have been in order to better control and predict the outcomes. The League, however, has indicated an openness to suggestions for change and has attempted to modify the debates on several occasions. Some of the modifications being considered are: 1) the use of non-journalists as questioners, 2) the inclusion of more rebuttal time, and 3) the use of cross-examination. The League has also called upon "...people knowledgeable in the area of political communication to discuss these issues."[29]

In summary, "The nature and quality of the 1984 presidential campaign--a fast-approaching event--will be affected by how constructively we use the intervening time to evaluate the 1980 Presidential Debate experience in order to build a better one in 1984."[30] As emphasized earlier, debates in 1984 are of paramount importance since there existence can do much to foster the continued existence of this form of political discussion in future campaigns.

FOOTNOTES

[1]League of Women Voters, White Paper on the '76 Presidential Debates, 1977, p.1.

[2]League '76, p.1.

[3]League '76. p.2

[4]League of Women Voters, White Paper on the '80 Presidential Debates, 1981, p. 9.

[5]League '80, p. 9.

[6]William E. Francois, Mass Media Law and Regulation, 1978, p. 472.

[7]Francois, p. 472.

[8]Francois, p. 472.

[9]League '80, p. 22.

[10]League '80, p. 22.

[11]Francois, p. 472.

[12]League '80, p. 23.

[13]League '80, p. 23.

[14]League '80, p. 24.

[15]League '80, p. 24.

[16]League '80, p. 24.

[17]Federal Communication Commission, NEWS Release, September 17, 1981, p. 3.

[18]Federal Communication Commission, p. 3.

[19]Federal Communication Commission, p. 3.

[20]League '76, p.4.

[21]League '76, p.3.

[22]League '76, p.3.

[23]League '76, p.4.

[24]League '80, p. 19.

[25]League '80, pp. 8-9.

[26]The League considered figures ranging from 15 to 25 percent.

[27]Douglas D. Rose, "Citizen Uses of the Ford-Carter Debates", The Journal of Politics, February, 1979, pp. 214-221. The author provides a brief overview of the affects of the debates on voter behavior.

[28]League '76, p. 2.

[29]League '80, p. 21.

[30]League '80, p. 18.